IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

Crl.Rev.Pet.No. 2695 of 2007()

CRA.616/2001 of ADDL.SESSIONS COURT (ADHOC)-III, THALASSERY
CC.162/2001 of ADDL.CHIEF JUDICIAL MAGISTRATE COURT, THALASSERY

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REVN. PETITIONER: APPELLANT/IST ACCUSED

SUDHAKARAN, S/O.ACHUTHAN, REENA NIVAS,
NEW MAHE, EDANNOOR, THALASSERY.

BY ADV. SRI.K.S.MADHUSOODANAN
SRI.T.V.JAYAKUMAR NAMBOODIRI

RESPONDENTS: COMPLAINANT & FORMAL PARTY

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1. STATE OF KERALA, TO BE REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. S.H.O. THALASSERY POLICE STATION, THALASSERY.

BY

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 16/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2695 OF 2007

Dated this the 16th day of July, 2007

O R D E R

Petitioner, who was the first accused in C.C.No.162/2001 on the file of the Additional Chief Judicial Magistrate, Thalassery, challenges the conviction entered and the sentence passed against him concurrently by the courts below for an offence punishable under section 324 IPC. He has been sentenced to simple imprisonment for one year for the said conviction.

2. Eventhough the learned counsel for the revision petitioner assailed the conviction on various grounds, the conviction has been recorded by the courts below after a careful evaluation of the oral and documentary evidence in the case and this court, sitting in the rarefied revisional jurisdiction, will be loathe to dislodge the said findings particularly when there appears to be no infirmity in the appreciation of evidence by the courts below. The conviction entered against the petitioner is accordingly confirmed.

3. What now survives for consideration is the question of

adequacy or otherwise of the sentence imposed on the revision petitioner. The courts below appear to have been insensitive to the need to compensate the victims of the crime as mandated by section 357 Cr.P.C. and as has been impressed upon the criminal courts in the country by the apex court in the decision reported in ***Hari Krishnan and State of Haryana Vs. Sukhbir Singh and others*** [AIR 1988 SC 2127]. In the facts and circumstances of the case, I am of the view that penal servitude by way of incarceration is not warranted in this case and that interests of justice will be adequately met by directing the revision petitioner to undergo imprisonment till the rising of the court and to pay an appropriate amount of compensation. Accordingly, the sentence imposed on the revision petitioner is set aside and he is directed to undergo imprisonment till the rising of the court and to pay a sum of Rs.5,000/-(Rupees five thousand only) to PW1, the injured, within 45 days from today, failing which he shall undergo simple imprisonment for three months by way of default sentence.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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